

Confusion Hill Bypass Project
Administrative Civil Liability Order No. R1-2012-0034
State Water Resources Control Board Workshop
January 21, 2014



The ACL Order imposed penalties for temporary turbidity that was specifically authorized by the Certification.

- The Application stated that the project would cause turbidity.
- The 401 Certification expressly recognized that impacts would occur.
- The Certification authorized these impacts, but penalties nonetheless levied.



The Certification required Caltrans to devise BMPs using its professional judgment. The record does not show the BMPS were inadequate.

- Pile driving in the riverbed was prohibited, necessitating CMPs to install foundations.
- BMPs included sandbags and filter fabric; 6 CMPs in active river, only 1 turbidity event.
- No proof or evidence that BMPs were inadequate.



Violation No. 73

The Order levied penalties under an interpretation of the Certification that is unsupported by its plain language.

- The Application specifically described placing a sedimentation basin on the gravel bar.
- No concerns were expressed by Regional Board staff when issuing the Certification.
- The basin was installed on dry land rather than in “surface waters.”



Category A Violations

Design improvements dramatically reduced impacts on the river that had been authorized by the Certification.

- Project authorized 50 temporary piles in the live river, and 4,200 cubic yards of concrete.
- As built, only 6 piles were installed, and 12 cubic yards of concrete.
- The majority of authorized in-stream impact was avoided.



Design improvements dramatically reduced impacts to the river that were authorized by the Certification.

- Project authorized a new access road and ramps, built with riverine material.
- Construction improvements avoided the road and ramps entirely.

